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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,602	09/21/2001	Philip C. Lausier	4940/1G	5669

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EXAMINER

LE, HIEU C

ART UNIT PAPER NUMBER

2142

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/960,602

Applicant(s)

LAUSIER, PHILIP C.

Examiner

Hieu c. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3-29-05</u> | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's argument filed 3/29/05 have been fully considered but they not persuasive with regard to claim 1,6-8 for following reasons:

(A) As to claim 6, Applicant alleges that " Rodriguez does not meet these requirement as below, and display interface for displaying the received content [.]", (p. 7, line 20-p. 9, lines 4) The Examiner disagrees. Firstly, Rodriguez clearly discloses a processor that executes code capable of serving both live and non-live content; a satellite interface, connected to the processor, that receives the content from the satellite link (Fig. 4, item 110); and a display interface, connected to the processor (Fig. 4 , item 341). Secondly, Rodriguez's DHCT 14 receives its content from a headend which serves to collect content for distribution into the digital broadband delivery system (DBDS). Also, in communication with the headend 26 is a Network Operation Center (NOC) 22, which is an external management center interfaced with the DBDS 10 to allow for remote operation of the system [00,23]. Third, claim 6 recites "a display interface connected to the processor". A TV display is an interface connected to the DHCT, no where in the claim the display interface is required to be a part of the node. Fourth, The Examiner cannot see any where in the claim language "the edge node has no two-way communication via satellite, the back channel, BC 600 is by a separate terrestrial network ", "NOC serves both as the management center and the collection point for content to be delivered to the edge node".

(B) On pages 9-10 of the Remarks, as to claims 1-3, Applicant argues that the references Rodriguez, Specht, fail to disclose or suggest "the system is not

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an edge node as that term is used in Applicant's inventor". In response, it is submitted that the references suggest this feature. Rodriguez not only teaches one aspect of the applicant's invention, that is, the communication system is connected satellite interface with the headend 26 is a Network Operation Center (NOC) 22 (0019)-(0021), but also teaches that display interface for displaying the received content (0022).

(C) 1048, 1052, 189 USPQ 143,147 (CCPA 1976). Using this standard, the Examiner respectfully submits that she has at least satisfied the burden of presenting a prima facie case of obviousness, since she has presented evidence of corresponding claim elements in the prior art and has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention (See the Office Action dated 12/30/2004). Note, for example, the motivations explicitly stated on page 3 of the Office Action dated 12/30/2004, "with the motivation of obtaining VLAN that will help Specht, (col. 4, lines 8-16) and "At the time of the invention was made, one of ordinary skill in the art would have been motivated to modify the system of Rodriguez by using a VLAN in order to improve the security and broadcast control with virtual LAN capabilities (col. 2, lines 44-49).

The Examiner respectfully notes that each and every claimed limitations are addressed by select portions of the respective reference(s) which specifically support that particular motivation and/or an explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a

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holding of obviousness. As such, it is respectfully submitted that explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner. Furthermore, it is respectfully contended that there is no requirement that the motivation to make modifications must what they suggest to one versed in the art, rather than by their specific disclosures, In re Bozek, 163 USPQ 545 (CCPA 1969);

In addition, it is respectfully submitted that the issue of obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in In re DeLisle 406 Fed 1326, 160 USPQ 806; In re Kell, Terry and Davies 208 USPQ 871; and In re Fine, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing In re Lalu, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in In re Lamberti et al, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

According to In re Jacoby, 135 USPQ 317 (CCPA 1962), the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied references. In In re Bode, 193 USPQ 12 (CCPA 1977), every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein.

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According to *Ex parte Berins*, 168 USPQ 374 (Bd. Appeals), there is no statutory limitation as to the number of references that may be used to demonstrate obviousness ...not what references expressly state but what they would reasonably suggest to one of ordinary skill in the art. In *In re Conrad*, 169 USPQ 170 (CCPA), obviousness is not based on express suggestion, but what references taken collectively would suggest.

As to claims 2-3 depends from independent 1 the Applicant argues the same arguments as in claim 1 which has been fully responded to above.

(D) On pages 16-18 of the Remarks, as to claims 4 & 7, Applicant argues that 1048, 1052, 189 USPQ 143,147 (CCPA 1976). Using this standard, the Examiner respectfully submits that she has at least satisfied the burden of presenting a prima facie case of obviousness, since she has presented evidence of corresponding claim elements in the prior art and has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention (See the Office Action dated 12/30/2004). Note, for example, the motivations explicitly stated on page 3 of the Office Action dated 12/30/2004, "with the motivation of obtaining VLAN that will help Specht, (col. 4, lines 8-16) and "At the time of the invention was made, one of ordinary skill in the art would have been motivated to modify the combined system of Rodriguez by using a portable enclosure in order to provide an interactive television system that provides interactive functions and alerts a user of these interactive functions, Kikinis clearly discloses a method for notifying a user of an interactive event received by a hand held unit (col. 3, [0036]).

The Examiner respectfully notes that each and every claimed limitations are addressed by select portions of the respective reference(s) which specifically support that particular motivation and/or an explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness. As such, it is respectfully submitted that explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner. Furthermore, it is respectfully contended that there is no requirement that the motivation to make modifications must what they suggest to one versed in the art, rather than by their specific disclosures, In re Bozek, 163 USPQ 545 (CCPA 1969);

In addition, it is respectfully submitted that the issue of obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in In re DeLisle 406 Fed 1326, 160 USPQ 806; In re Kell, Terry and Davies 208 USPQ 871; and In re Fine, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing In re Lalu, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in In re Lamberti et al, 192 USPQ 278 (CCPA) that:

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- (iii) the question is not express teaching of references, but what they would suggest.

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According to *Ex parte Berins*, 168 USPQ 374 (Bd. Appeals), there is no statutory limitation as to the number of references that may be used to demonstrate obviousness ...not what references expressly state but what they would reasonably suggest to one of ordinary skill in the art. In *In re Conrad*, 169 USPQ 170 (CCPA), obviousness is not based on express suggestion, but what references taken collectively would suggest.

Claim Rejections - 35 U.S.C. § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351 (a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 6 are rejected under 35 U.S.C. 102(e) as anticipated by Rodriguez et al.
(2002/0059623).

As to claim 6, Rodriguez discloses an edge node (fig. 1, item 14) that receives content from a NOC (item 22) via a satellite link and displays it (col. 2, para [0019]), the edge node comprising:

a processor that executes code capable of serving both live and non-live content;

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a satellite interface, connected to the processor, that receives the content from the satellite link (Fig. 4, item 110); and

a display interface, connected to the processor (Fig. 4, item 341).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. (2002/0059623) in view of Specht et al (US Patent 6,414,958).

As to claim 1, Rodriguez discloses an edge node (Fig. 1) comprising:

one or more media servers capable of simultaneously serving both live and non-live content (col. 2; lines [0019]).

a private network, connected to the media servers, that receives content from a NOC (item 22) via a satellite link and distributes it to the media servers;

a computer with an attached display screen; and a public network, connected to the media servers, that transmits the content from the media servers to the computer (col. 5, para [0039]).

Rodriguez does not disclose a VLAN.

Specht disclose network management, remote monitoring, and a VLAN capabilities (col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Rodriguez's teachings to modify the combined of method

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Rodriguez and Specht by using a VLAN in order to improve the security and broadcast control with virtual LAN capabilities (col. 2, lines 44-49).

As to claims 2-3, Rodriguez further discloses where the interfaces with the computer via a wireless network and where the interfaces with the computer via a wired network (col. 14, lines [0098]).

9. Claims 4, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al.(2002/0059623) in view of Specht et al (US Patent 6,414,958). as applied to claim 1 above and further in view of Kikinis (2002/0059597).

As to claim 4, neither Rodriguez nor Specht discloses where the one or more media servers, the private VLAN, the computer, and the public VLAN are contained in a portable enclosure.

Kikinis discloses a method for notifying a user of an interactive event received by a hand held unit (col. 3, par [0036]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Kikinis's teachings to modify the combined of method Rodriguez and Specht by using a portable enclosure in order to provide an interactive television system that provides interactive functions and alerts a user of these interactive functions.

As to claim 7, Rodriguez discloses a method for displaying content received from a NOC comprising:

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using a Network to receive content from a satellite link; distributing the content from the network to one or more media servers capable of simultaneously serving both live and non-live content (col. 2, para [0019]);

using a network to transmit the received content from the media servers to a computer with an attached display screen; and displaying the transmitted content using the computer with an attached display (Fig. 4, item 341).

Rodriguez does not disclose where the private VLAN, the one or more media servers, the public VLAN, and the computer with an attached display screen are contained in a portable enclosure.

Specht disclose network management, remote monitoring, and a VLAN capabilities (col. 4, lines 8-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Kikinis's teachings to modify the combined of method Rodriguez and Specht by using a portable enclosure in order to provide an interactive television system that provides interactive functions and alerts a user of these interactive functions.

Specht does not disclose the computer with an attached display screen are contained in a portable enclosure.

Kikinis discloses a method for notifying a user of an interactive event received by a hand held unit (col. 3, para [0036]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Kikinis's teachings to modify the combined of method

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Rodriguez and Specht by using a portable enclosure in order to provide an interactive television system that provides interactive functions and alerts a user of these interactive functions.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable Rodriguez et al. (2002/0059623) in view of Kikinis (2002/0059597).

As to claim 8, Rodriguez discloses a method for displaying content received from a NOC (Fig. 1) comprising:

using a satellite interface of a computer to receive content from the NOC over a satellite link (fig. 1, item 22,14);

using a processor of the computer to execute code, capable of serving both live and non-live content, to serve the received content (fig. 4; item 110).

outputting the served content using a display interface of computer (fig. 4, item 341).

Rodriguez does disclose where the computer is contained in a portable enclosure.

Kikinis discloses a method for notifying a user of an interactive event received by a hand held unit (col. 3, para [0036]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Kikinis's teachings to modify the combined of method Rodriguez and Specht by using a portable enclosure in order to provide an interactive television system that provides interactive functions and alerts a user of these interactive functions.

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11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. (2002/0059623) in view of Specht et al (US Patent 6,414,958) as applied to claim 1 above and further in view of Ollikainen et al (US Patent 6,377,981).

As to claim 5, neither Rodriguez nor Specht discloses further including worldwide electrical power connections.

Ollikainen discloses a the cyberstation provides a means for implement a variety of customized standalone receive/transmitter stations that can provide service to multiple household or business (col. 4, line 58-col. 5, line 9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Ollikainen's teachings to modify the combined of method Rodriguez and Specht by including worldwide electrical power connections in order to provide a flexible interface between satellite/Wireless broadcast/two-way interactive data services and personal computers that may be configured to suit a variety of different communications alternatives and employment situations.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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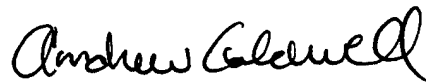
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Le whose telephone number is (571) 272-3897. The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Caldwell Andrew, can be reached on (571) 272-3868. The fax phone number for this Group is (571)-273-3897.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 273-8300.

Hieu Le

A handwritten signature in black ink, appearing to read "Andrew Caldwell", with a stylized flourish at the end.

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER